

CALIFORNIA ACUPUNCTURE BOARD

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Governor

State of California
Department of Consumer Affairs
Gray Davis,



(Approved September 23, 2003)

ACUPUNCTURE BOARD MEETING MINUTES

July 14, 2003
City Council Room, Arcadia, CA 91007

Full Board Meeting July 14, 2003

MEMBERS PRESENT

Pei Li Zhong-Fong, L.Ac., Chair
Michael Eng
Shari Asplund, Vice-Chair
Joan C. Chang, L.Ac.
Min M. Chang
Justin Tin

STAFF PRESENT

Marilyn Nielsen, Executive Officer
Don Chang, Legal Counsel
Janelle Wedge, Administrative Coordinator
Nancy Molinar, Education Coordinator
Helen Gathercole, Administrative Technician

MEMBERS ABSENT

GUEST LIST ON FILE

1. Call to Order and Establishment of a Quorum (P. Zhong-Fong, Chair)

Chair Pei Li Zhong-Fong called the Acupuncture Board Meeting to order at approximately 8:45a.m. Roll was taken and a quorum established.

2. Chair's Report – Pei Li Zhong-Fong

Ms. Zhong-Fong reported that pursuant to Business and Professional Code Section 4934.1, Little Hoover Commission (LHC) has started to prepare for the comprehensive analysis of the four issues facing acupuncture in California. The LHC has formed an advisory committee and Ms. Nielsen and the Chair were invited to participate in the committee, this will be held on August 27, September 24 and October 22, 2003 in Sacramento. The LHC will also have two public hearings and Ms. Asplund, Ms. Nielsen and the Chair were invited to testify on behalf of the Board on August 28 and October 23, 2003. Ms. Zhong-Fong suggested that the Board members provide input and clarification on the Board's position of those four issues. Ms. Zhong-Fong wanted to acknowledge the additional workload of the Board's staff for preparing 9,000 newsletters and two survey forms that the Board sent out to all the licensed acupuncturist.

3. Executive Officer's Report – Marilyn Nielsen

Ms. Nielsen reminded the Board members that the September Board meeting was moved to September 22 and 23, 2003, which was previously scheduled for September 15 and 16, 2003 in San Francisco, and the December 2003 meeting moved to December 1 and 2, 2003 in Pasadena. Ms. Nielsen reported that Board closed fiscal year 2002/2003 budget on June 30, 2003 with a small surplus of two percent, and carried a deficiency of approximately \$50,000 in the Attorney General's line item, which was absorbable in the overall budget. The Board received a Letter of Recognition from the State Controller's office complimenting the Board for submitting its 2001 and 2002 financial reports in an accurate and timely manner, and meeting the specific criteria required. The Board recognized Janelle Wedge, Administrative Coordinator, for her commitment to excellence in performing her administrative, financial and budgetary job. Since the March 2003 the Board has undergone several budget drills relating to the Governor's

budget directives to reduce expenditures and staff. The Governor's proposed current year 2003/2004 budget identifies employee reductions amounting to \$855 million. To achieve this savings, the Department of Finance directed all state agencies to prepare a 10% staff reduction plan, targeting staff layoffs and elimination of the identified funds. The Board submitted its reduction plan in April and since then the Governor implemented the 10% reduction plan, with temporary help being furloughed; the hiring freeze has been extended two more years through June 2005; and all vacant positions on June 30, 2003 were eliminated. In addition, departments failing to submit reduction and layoff plans are now required to lay off all employees with less than 30 months of state service. Ms. Nielsen indicated the loan from the Board's reserves funds to the General Fund were increased to \$1.5 million effective July 1, 2003. The 2004/2005 BCP to increase the Attorney General's budget line item was submitted in June. But, the Department of Finance released a Budget Letter Friday July 11, indicating an anti-growth policy is still in effect unless an agency can re-direct the funds within the current budget, the BCP probably will not be considered. Ms. Nielsen indicated the lease for the new Board office has been signed and the office should be moving at the end of September.

4. Approval of March 12-13, 2003 Meeting Minutes

SHARI ASPLUND MOVED AND JOAN CHANG SECONDED THE MOTION TO APPROVE THE MARCH 12-13, 2003 MINUTES AS AMENDED

AYES: SHARI ASPLUND

PEI LI ZHONG-FONG

JOAN CHANG

MIN CHANG

JUSTIN TIN

ABSTAINED: MICHAEL ENG (DID NOT ATTEND THE MARCH BOARD MEETING)
MOTION PASSED

5. SPECIAL ORDER OF BUSINESS-REGULATORY HEARING (D. Chang)

Amend Title 16, California Code of Regulations, as follows:

(Previously noticed in California Regulatory Notice Register #Z-03-0570-10, publications date of May 30, 2003 and sent to the Acupuncture Board's general mailing list):

Mr. Chang reported this hearing is to consider the proposed changes to the California Code of Regulations (CCR) Sections 1399.415, 1399.416, 1399.434, 1399.435 and 1399.436 as outlined in the public notice. The hearing will be opened to take oral testimony and/or documentary evidence by any person interested in these regulations for the record, which is being made by tape recorder. All oral testimony and documentary evidence will be considered by the Board pursuant to the requirements of the Administrative Procedure Act, prior to the Board formally adopts the proposed amendment to these regulations or recommends changes which may evolve as a result of this hearing. If any interest person desires to provide oral testimony, it will be appreciated if he/she will stand or come forward and give his/her name and address, and if he/she represents an organization, the name of such organization, so that we will have a record of all those who appear. It is the desire of the Board the record of the hearing be clear and intelligible and the hearing itself be orderly, providing all parties with a fair ample opportunity to be heard. This hearing will receive comments on the proposed regulatory changes; it is not a forum for debate or defense of the regulations. Remember it is not necessary to repeat a statement of a previous speaker, it is efficient to state that you agree, written statements should be summarized and submitted to the Board and should not be read. After interest parties have been heard the issues will be substantiated. Are there any questions concerning the nature of the proceedings or the procedure to be followed here before we begin? If not, we will proceed in chronological order.

- a. **Amend Section 1399.415** – this proposed amendment defines that all applicants for examination who are enrolled in an approved acupuncture and Oriental medicine educational training program prior to January 1, 2005 shall have completed the coursework and training set forth in Section 1399.436 consisting of 2,348 theoretical, didactic and clinical training; those enrolled in an education training program on or after January 1, 2005, shall have completed the coursework and training set forth in Section 1399.434 consisting of 3,000 theoretical, didactic and clinical training; and would require an applicant to complete their educational training program at least thirty days prior to the examination date for which they have applied.

Public Comment: No comment.

- b. **Amend Section 1399.416** – this proposed amendment requires a foreign-trained applicant to submit their educational transcripts to a Board approved credential evaluation service for review for submission to the Board.

Public Comment: No comment.

- c. **Add Section 1399.434** – this document specifies that a school approved by the Board shall use a training program for all students entering its acupuncture and Oriental medicine training program on or after January 1, 2005, consisting of 2,050 hours of didactic instruction and 950 hours of clinical instruction for a total of 3,000 hours.

Public Comment: Brian Fennen, Council of Acupuncture and Oriental Medicine Associations (CAOMA), I submitted a public letter to the Board, I will not read that as directed, however as to summarize it, we have had three comments and revisions. The first one would have been to 1399.434 (a. 7), I believe an error in the notes was taken in the previous meeting where the item was inserted after the last meeting and it had to have been noted in this document. I recall the discussion was to delete this item because it was already mentioned, item ... physiology ... It was already mentioned in the survey in the basic physiology including neuro-physiology...chemistry and neurochemistry. So as I recall in my notes this was deleted in that section, and it doesn't really fit in with the other subject matters. Next some members of our profession thought the list of specialties under (b.1.f.) Oriental Medicines specialties, should also include geriatrics and family medicine. Geriatrics is extremely important specialty, I'm not sure if you are aware of it, but medical doctors are now required to have attained training in geriatrics as standard training in California. Existing doctors are required to get continued education for the aging population in California. The third comment was regarding the clinical practice. That would be (a.1) it should be supervised practice in clinical treatment of a patient with acupuncture and Oriental medicine and other modalities of Oriental medicine. And I just realize, perhaps I was saying that while that is appropriate, obviously every patient doesn't get every modality. **Neal Miller, California Certified Acupuncture Association (CCAA)**, I would like to compliment the Board and staff putting together such a comprehensive regulatory package. I would like to echo the sentiments of the Council of Acupuncture and Oriental Medicine in the agreement that 1399.434 adding the words Chinese herbal medicine ... for medicine to the section would better clarify what it is you do, thank you. **Deke Kendall, National Guild of Acupuncture and Oriental Medicine, for education research (National Guild of AOM)**, we reviewed the curriculum in detail and think it was an outstanding effort. **Tom Haines, Pacific College of Oriental Medicine and Chair for the AOM Committee for California Approved Schools (PCOM)**, although we work really hard on this document the document is not done, there is just stuff in here that as a curriculum, it just needs to be revised. I don't quarrel with the hours; I don't quarrel with the content, but in terms of the organization of the content. I have tried to apply it to my school, which is one of the bigger schools, and it is very difficult to find words where it is being done in our curriculum, without changing our curriculum drastically. Just let me give you the overview first. The categories we got from the 3,000 hours, I have worked with three or four schools and simply could not get the schools to respond during the summer months for some reason. But if we had a little more time I think we could come to an agreement on the language of the categories. It seems to me if we move things around, for instance, the professional development, if you read the sub-categories in professional development, it really is what we teach in

research methods, and it is not professional development as such. You need to throw in History of Medicine; it does not belong in there. What I propose is that we have four categories, Foundations, which are the Basic Science and the Medical Science. Basic Science is pretty much the same as we had before, except we duplicated one of the categories. The number seven is included in number six, doesn't make sense to have it in twice. The neuro-physiology mechanism is under and including neuro-physiology. I understand there is a need to understand the mechanisms and it should be in the courses and as well in later courses that are in the Oriental medicine (OM) series. The second category under Foundation, would be Medical Science. We have some catchall categories, which kick the hours up within the categories, but takes away some of the other coursework I think is more important. My general observation is that we have increased a lot of this curriculum and very little of the OM, and this is OM curriculum, so that concerns me, but it's ok, but I don't want to put things in the Oriental medicine categories that take away teaching for our basic medicine... For instance, the clinical sciences and clinical medicine are listed under clinical medicine patient assessments for diagnosis, when in fact those are basic foundation medical courses that could be taught under that first category. The second category, I recommend we talk about is acupuncture and Oriental medicine (AOM) instead of acupuncture as a separate, makes it more cohesive, more consistent. But the AOM category then would have the AOM principals and theory and would also have the treatment procedures. The way this document is written right now, it says treatment. Treatment is really clinical practice and I think what we are really trying to communicate with this document is that the treatment procedures also has a didactic portion in the curriculum. That needs to be clarified a little more, so we don't get confused with what we're doing. I think we can change that language without any problems. Under the second category would be the treatment procedures and then the third category would be the clinical medicine patient assessment diagnosis, which include all of the assessment, diagnosis case management and practice management information in that category. The fourth one, the clinical practice. In working this around, three or four schools would work on this and come up with the same 3,000 hours, but instead of the 350 hours in the first category, we would have 525 hours. Because we've added public health, professional development, which is research...and clinical survey courses. This make more sense from a clinical standpoint and from our current curriculum, it is not a major change from what we are already doing. Also your staff will be able to categorize it in the same category. The OM categories, including the principal theories and procedures would then go to 1,525 and now listed as 1,255. We would add some more courses like case management, practice management and clinical medicine, which would actually be reduced because two of those categories moved up to the 350 made it 525. Its just moving things around so it fits the current schools format ... 950 is the same. If you look at this document, boy we have increased the curriculum 36 percent. The item on page 5 and it reads, a Board approved training program consist of x amount... the coursework shall extend over a minimum period of 4 years, 8 semesters, 12 quarters and we have increased the curriculum 36 percent and not increased the time to complete the program. So I think that we really need to look at the minimum, and say if we are going to increase the hours that much, we should move that up six months. It doesn't make sense to increase the hours and not increase the time it takes a person to go through the program. These are things that are inconsistent with... There are duplications in categories and there are non-functional categories. Let me give you one of the non-functional categories, you tell me what am I supposed to teach in this. Under (b.) Oriental Medicine Principals, Theory and Treatment again, which is not treatment, it's didactic procedures. Page 2, under (1.) Principals and Theory, what does (H.) say "Acupuncture and Oriental medicine literature". That is everything in didactic which is a non-functional category, it is stupid in there, pardon my expression putting it that way. But the document needs to be... in a sense that it is functional for the schools, functional for you folk, functional for the profession and we all know we are all on the same page. Another minor problems again on Principals and Theory Page 2 (D.), 450 hours for the herbs. I turn to (2, E), herbal prescription, counseling and preparations and is that part of the 450 hours? Well you are right, it is. But it is not clear. So now do we have to teach more than the 450 hours? I will talk to enough schools, I think by September 1 we could have general comments that would not change the emphasis or the ... document, but would surely clean up the academic sense as well as a functional sense. And I will have all this in writing to you folks by September 1 if you could give the schools a little time to work on. Thank

you very much. **Ron Zaidman, President of Five Branches Institute**, I just wanted to repeat the comments of Tom Haines. I think we would benefit greatly if we would have faculty and acupuncture deans of the colleges review some of the vocabulary to the program that we will be teaching, thank you.

Lixin Huang, President of Council of Colleges of Acupuncture and Oriental Medicine of San Francisco (CCAOM), I'm here, but not to repeat what Mr. Haines stated, but I think overall... the schools would simply request some time to work together implementing the new curriculum. Therefore by September 1 this would be a perfect time for schools to look into how to put together and provide the Board with feedback by the next meeting. I would like to bring up another point, I think my letter has already been submitted to the Regulatory Hearing in writing and will not repeat. The Council of Colleges and other colleges in California would like to ask the Board to reconsider the regulation that you put out in terms of CNT (clean needle technique). We would like the Board to consider to continue to use the previous language, which is the course that uses as its primary reference the most current edition of the Clean Needle Technique Manual published by the National Acupuncture Foundation, or a course administered by the Council of Colleges of Acupuncture and Oriental medicine. We feel it is important for the Board to hold regulations that is intended to raise overall education standards in the state. If any language the Board would consider that we propose, the language could say the cleaning technique portions of this subject shall require a student to successfully complete clean needle technique course administered by the Council of Colleges of Acupuncture and Oriental or by another clean needle provider recognized by the National Commission for Certification of Acupuncture and Oriental Medicine. We feel this category is really crucial for the students and clinical practice safety. Here I would like to share also with the Board some comments by the students that took the CNT recently in California regarding their feedback. One said that, just recently in Los Angeles, everything was professional and pleasant, very good experience and thank you for the valuable information. Also student's feedback, I felt the quality of the class was assuring for persons taking the test. Many students have no prior health care experience and need this information. This is very helpful. Thank you, the instructor was a great motivator; they were clear precise and helpful. I just want to share with you that the evaluations from the students ... course and test prove that this is a valuable information and good experience for the students therefore we recommend the Board to consider this.

Ron Sokolsky, Southern California University of Health Science (SCUHS), I have some concern for the CNT issues and the changes in the curriculum. I taught a class in CNT yesterday. I have a class of 54 students that sat for it and out of the 54, 26 and these students are at the ... level. Out of 54, 26 had some education in CNT, and 16 understood ... out of 54, 3 said would practice CNT according to the handbook regulations and non of those were able say that there was any supervisory ... asking clinical ... faculty regarding CNT. I really have great concerns about eliminating the CNT course as provided by the Council of Colleges. Need to begin practice on a safety standpoint. Thank you.

Penelope Ward, Accreditation Commission for Acupuncture & Oriental Medicine (ACAOM), I would also like to support the comments of the last two speakers, regarding the CNT. The Accreditation Commission requires that all students complete the CNT program. We feel it is important to have a national standard in this area, rather than, you can take this course or that course. In keeping, this would benefit everybody and we would require being accredited school. The vast majority of schools that California regulates go on and get nationally certified and in which case they must take this course, and this would keep it consistent and ensure that everybody in fact take a quality CNT ... thank you.

Ron Zaidman, President of Five Branches Institute in Santa Cruz, I believe the Acupuncture Board would be well served and certainly would attract the interest of the public to have the CNT requirement as part of taking the exam. It is extremely well written and I think the emphasizes is really... Mr. Chang interrupted Mr. Zaidman and stated that only one comment per person and that he had previously done so.

Ted Priebe, L.Ac., National Guild of AOM, Basically this clean needle technique should be covered in the entire program and to have a separate test outside the regulations of California it is unneeded and unnecessary. This is something that can be done and I think should be in clinic hours ... and shouldn't be any exceptions for another test afterwards. The course and test should be something that should be in the course in school.

Raymond Victorio, President of Acupuncture Integrative Medicine College in Berkeley, Just a couple of quick comments. I do agree with idea of the language in 1399.434, it does need to be revisited, so that it

is cleaned up and reflect the overall intent of the curriculum and outcome taskforce, competency taskforce that was assembled. Lot of the language that is in there doesn't provide for what competencies really are. And that is essentially ... skills, knowledge, attributes and values and express performance requirements in behavioral terms. And when all of those are all brought together they have to be constructed in such a way they can be measured and measurable. So within that framework, I agree that categorically there could be some consistency and changes that make sense within the different categories. Lastly I would just like to comment on the clean needle technique. Although there is a domain of the clean needle technique education ... at some point be captured within an education institution. I think at this point right now, we are still dealing with consistency, dealing with what has been valued as some level of demonstrated effectiveness within the protocol that has been laid out to CNT curriculum at this time. There are varying degrees of effectiveness within the institution, I know that is not an easy thing to hear, because to have every institution have similar delivery and similar educational effectiveness, but what occurs is that it is not. So in order to release that one area that is critical within our studies at this time, I'm not saying it can't be revisited, just I'm saying at this time it would be appropriate ... protocol as set forth CNT programs.

d. Add Section 1399.435 – this proposed document effective January 1, 2005, the Board approved schools must provide specified procedures regarding awarding academic and transfer credits. That would involve qualifications. This would also require that students entering into an approved program, must have satisfactorily completed at least two academic years of education at the baccalaureate level as a prerequisite into the professional program.

Public Comment: Penelope Ward, ACAOM, This is actually more of a question, which is obviously not a comment, so I will make it a comment. Is the Acupuncture Board going to have the same criteria for the tutorial program as the school program? As to be consistent with it's standards or will it be a separate entry, pre-education requirements?

e. Amend Section 1399.436 – This proposal specifies that the Board approved schools shall use the 2,348 hours curriculum as currently in effect for those students who enrolled in schools prior January 1, 2005.

Public Comment: No comment.

Mr. Chang, this will conclude the public comment period of the Regulatory Hearing, the Board will discuss the proposals and public comments.

6. Administrative Business – (Discussion/Action)

a. Proposed Regulatory Amendment to Title 16, California Code of Regulations, Sections 1399.415, 1399.416, 1399.434, 1399.435 and 1399.436, from Public Hearing held Above Under Agenda Item 5.

Mr. Chang recapped that the Board already received written comments submitted by the Council of Colleges and CAOMA, which were summarized in public comment. You have also received a written comment from CMA, who is concerned that the Board does not have the authority to process the proposed regulations and that they are not necessary. CMA argues, while the Board is authorized to establish standards for approved training adopting regulations at this time mandating broad educational standards and training for acupuncturists, including the practice of Oriental medicine and clinical medicine, patient assessment and diagnosis are not necessary, authorized or consistent with existing statutory authority. In addition, they argue the proposed new approved training program explicitly aims to prepare an acupuncturist to assess or diagnose disease, and utilize standards physical examinations, laboratory and imaging studies and international classification of diseases (ICD) diagnostic principles. Finally CMA felt the proposed regulations were not necessary and inconsistent, because under B&P Code Section 4934.1, the Little Hoover Commission (LHC) is required to make a comprehensive analysis on the scope of practice, education requirements and the approval process for educational training programs for acupuncturists. Mr. Chang explained that B&P Code Section 4933 authorizes the Board to adopt, amend or repeal regulations as necessary to carry out the purposes and objectives of the Acupuncture Licensure Act, and B&P Code Sections 4927 and 4937 clearly states what the scope of practice for an acupuncturist. He explained, an acupuncturists works in a Western

medical environment and they need to have enough knowledge of the different types of modalities used by the Western practitioner to know when to refer a patient and how to talk to a patient in language they will understand when a patient is referred to them. Their education should provide the practitioner with the foundation to work within this environment, but the scope of practice is clear that it does not authorize them to practice Western medicine. With respect to the LHC conducting the analysis and recommendations, Mr. Chang stated he sees the review by the LHC as a parallel tract with the Board's regulations and the Board needs to proceed with implementing the regulations to comply with the requirements of B&P Code Section 4939 (b).

Mr. Eng questioned what are the Board's options and timeline in regards to adopting the regulatory package? Mr. Chang explained the 3,000-hour program requirements of B&P Code Section 4939(b), applies to all students entering programs on or after January 1, 2005. Curriculum regulations implementing this Code should be in place around January or February 2004, which provides for a one-year implementation period. Mr. Chang explained if the Board elects to keep the record open until September 2, 2003, There is enough time for the Board to approve extending the written comment period to September 1, 2003 and discussing/adopting the proposed language at the September Board meeting. If the Board amends the original proposed language based on public comment, the Board will do a fifteen-day amended notice and delegate the authority to the executive officer to adopt if no adverse comments are received and file the Rulemaking package. The Board's position on all written comments and oral testimony will be addressed in the Rulemaking packages' Final Statement of Reasons and submitted to the Office of Administrative Law (OAL). However, if the Board receives adverse comments on the fifteen-day amendments, the Board would have to review them and schedule a teleconference meeting with the Board members around the end of October to discuss/take action on and submit the Rulemaking package to OAL by the end of the year.

Mr. Eng questioned that in the Initial Statement of Reasons (ISR) relating to CCR Section 1399.416, two evaluation services were referenced for review of foreign applicants credentials, but only one service, the National Association of Credentials Evaluation Services, Inc. was named in the proposed language? Ms. Nielsen explained this was the organization selected in the Board's 2001 regulatory package because the National Services had the largest member organizations and diversity of locations available to the applicant. Ms. Zhong-Fong questioned that the proposed section of 1399.435(e) requires the clinic director and/or supervisor(s) to have at least five years of experience, however the same requirement does not apply to the didactic instructor teaching diagnosis, and she feels the entire faculty should have three years of experience. Mr. Chang responded, the Board has identified the problem of newly licensed practitioners being hired into positions of clinic directors or supervisors and justified the reasons for requiring the experience, however if the Board amended the regulatory proposal to include didactic instructors, the Board would likewise need to identify existing problems with the current requirement and justify a different requirement.

Public Comment: Penelope Ward, ACAOM, commented that ACAOM doesn't have requirements for this either.

Ms. Nielsen referenced 1399.435(f), which requires that all instructors shall be competent to teach their designated courses by virtue of their education, training and experience, and that all faculty credentials shall be equivalent to the course and degree level being taught. Mr. Eng questioned Mr. Chang, as to whether this regulatory package could be delayed if any questions surfaced about the economic impact. Mr. Chang responded he didn't think so, as there is no other way to increase the hours as required of B&P Code Section 4939(b) with less significant financial impact. Ms. Nielsen informed the members that a full Economic and Fiscal Impact Statement (STD. 399) addressing the impact on students, schools, consumers, and government, is part of the regulatory proposal that goes to the Department of Consumer Affairs. Joan Chang questioned if the requirements for the CNT under 1399.434 are new? Ms. Nielsen responded yes, and explained that current regulations (1399.436) requires students to successfully complete a course in CNT from a Board approved school that uses as its primary reference the most current edition of the Clean Needle Technique manual published by the

National Acupuncture Foundation, or successfully completes a CNT course administered by the Council of Colleges of Acupuncture and Oriental Medicine. Ms. Nielsen explained that when the Council of Colleges was amended into 1399.436, the Board understood that the Council of Colleges actually had four classes to certify their teachers, and maintain a list of the instructor's names that have been certified. However, we are finding that there are schools utilizing uncertified teachers or students to teach the course. The Council of Colleges certification provides a safeguard that an instructor has been trained and certified prior to teaching the course. Ms. Chang indicated she was concerned about limiting the instruction to one place/book. Ms. Nielsen replied that it is her understanding that in education and in the profession that the standard is the Council of Colleges Clean Needle Technique program and manual and are unaware of any other standards/manuals that exist. Ms. Zhong-Fong asked Ron Sokolsky how the Southern California University of Health Sciences teach the clean needle technique and the number of hours required? Mr. Sokolsky replied the course is an eight-hour course costing \$125, which has a practice and treatment component, and a written and clinical examination component, in addition to the requirement to study and review the Clean Needle Technique Manual prior to commencing the course.

Public Comments: Tom Haines, Pacific College of Oriental Medicine, reminded the Board that this is a competency level exam after they have had education from the colleges. It's not just the only thing they do, and even within the colleges I find that some of the professors perform needling with their thumbnails, which is not clean needle technique, but happens to be a technique that some practitioners use. CNT really is a competency, and I think in terms of the clean needle and the public perceives that we are safe and have consistency in the training and practitioners practice CNT. **Lixin Huang, President of Council of Colleges of Acupuncture and Oriental Medicine of San Francisco (CCAOM)**, This is not a class for first year students, usually students take this in their third year. It is reinforcing the student to remind, to remember or to relearn the clinical technique. This reminds me of the CPR training and nationally there are two foundations that could provide CPR for doctors, nurses and all the health care practitioners, the American Red Cross and the American Heart Association and require every year or every other year. These are similar standards for the practice of acupuncture. The current regulations of the Acupuncture Board do allow the schools to teach this class or take a Council of Colleges class. **Ted Priebe NAMA**, stated we see this subject come up numerous times and basically see this as a money making scheme and something that is redundant. CNT is something that students learn throughout their entire education, or should be learning throughout their entire education. Especially when they get into the clinic and can be easily certified by the clinic supervisors and teachers with continual monitoring, writing it down, and validating it. CNT should be something they learn and use throughout their entire education and especially once again that the student shouldn't have to take a separate test again at the end, if you don't know CNT by the time you get out of school you shouldn't be practicing. **Brian Fennen, Council of Acupuncture and Oriental Medicine Associations (CAOMA)**, stated he remembers when this issue came up a few years ago, but the CAOMA opposed this addition as a requirement, that a specific organization being mentioned, because a professional organization was attempting to set up their own CNT course and essentially with this language, the Board would be preventing them to conduct that business. This was discussed at the Board's March meeting and that was the decision basically not to stifle the competition. Also based on comments by the third year students it is too late by the third year, and a student should have taken this earlier. This is a really good regulation, it says CNT is required prior to inserting a needle in a human being, which is a good standard. And lastly I would just say that the enthusiasm the schools are demonstrating with the CNT course offered through the Council of Colleges indicates that the schools will continue to use it, even if you don't require it. **Deke Kendall, National Guild of Acupuncture and Oriental Medicine**, stated he just wanted to emphasize what Brian said, the students need to learn CNT before they ever insert a needle into anybody. This should most properly be taught at schools, just like it is taught in medical schools. There is no course that a medical doctor takes on CNT or anything else. And it's got to be verified, not only taught in school, but also verified with a clinical supervisor on at least on three separate occasions and these people know how to do

CNT. Some of the techniques taught are kind of theoretical, not actually used in clinical practice. **Ron Sokolsky, Southern California University of Health Science (SCUHS)**, stated that out of the 54 students that took the CNT examination last Sunday, only 3 of the 54 felt that their clinic supervisor was adequately trained in CNT to be able to instruct them through the process. My experience as Dean of Clinics for a year and a half, showed me that the supervisor of the majority of clinics are not adequately trained in CNT and to allow the supervisor to have the full responsibilities and oversight the training of the interns is inappropriate. Also as a site team member for the Accreditation Commission for Acupuncture and Oriental Medicine, he stated he has seen this in a number of schools throughout the State of California and believes there is the option to do by curriculum in the schools or to do the CNT exam. It also gives the students the opportunity to take the CNT as offered by CCAOM which is the valid method of certification through NCCAOM and also at the same time satisfy the California CNT training requirement. **Neal Miller, L.Ac.**, stated he has been listening to the discussion long before you all were on this Board and something has changed, because when we first discussed this, it was the schools were the most adamant against having the CNT when outside this state that was separate from their training. At that time the schools said we do a damn good job teaching our students. So what has changed? I just heard comments from schools saying the clinical supervisors are not qualified. I think the schools need to have qualified teachers that are teaching this course and if they are not, that is the problem. The problem is that we have to have an extra test and charge people more money to take this and if we do have this test and we do feel that there should be an extra test beyond what, put it back on the State Board exam. It is part of our responsibility and you should raise the fees and we could use the fees for money in California to help lower our budget. But to send our money outside of California because the schools are not doing a good job teaching qualified CNT by their own admission here today. That is where the problem lies. **Raymond Victorio, President of Acupuncture Integrative Medicine College**, stated he would like to clarify something and was a little dismayed from the comments by my colleague that the clinical supervisors are not qualified. I have been involved in schools long enough to see that there is part of the process of preparing the students for the clinical training of CNT. That is part of orientation, that is part of the indoctrination prior to the inclusion of what they have learned in all their didactic classes. It is essential and a protective ingredient and it is done very well. However where we are right now, we have this CNT that is a certification that is similar to what would be CPR certification. The schools are not doing CPR's, we still have an agencies that are recognized for that and then they give you your CPR cards. I didn't want it to be rested on that we have incompetent practitioners or faculty. **Lixin Huang, CCAOM**, stated for years, the Council of Colleges has training instructors according to the CNT manual published by the National Acupuncture Foundation. The Council has faculty in three languages, English, Chinese and Korean, which are located in different geographic locations and some are in California. Some schools have trained instructors, because it is up to the school and individual instructors. That is why Marilyn the Executive Director pointed out that other schools do not have certified instructors in teaching CNT courses. But the Council provides training regularly and has a CNT committee that meets twice a year. The Council has established quality standards for their course and student; course and instructor evaluations are performed at the end of every class. The Council of Colleges feels this is really the best way to provide CNT instructions to students. The Council has noticed that the students needed to be trained in CNT again in the second and third year. But the students will come from all over the country and most of them have not taken college CNT classes. American College for example, we would not accept students in any clinical related classes, because they have not been through clinical orientation, needling classes, observation, or internship. We do not feel comfortable to accept any students without prior experience in occupation or clinical curriculum. The current regulation of the Board really provides the option; either you go through an organized curriculum of CNT through the Council, or with an instructor in the schools. That is the point I would like to make.

Ms. Asplund asked if there was a charge for the instructor when they go through your program? Ms. Huang replied, no, there is no charge.

MICHAEL ENG MOVED SHARI ASPLUND SECONDED THE MOTION TO EXTEND THE DEADLINE TO SUBMIT WRITTEN COMMENTS ON THE BOARD'S PROPOSED CURRICULUM REGULATIONS UNTIL SEPTEMBER 1, 2003. THE EXECUTIVE COMMITTEE WILL REVIEW COMMENTS SUBMITTED TO THE BOARD AND MAKE A RECOMMENDATION TO THE MEMBERS AT THE SEPTEMBER 22-23, 2003 MEETING.

PASSED UNANIMOUSLY

b. Business and Professions Code Section 4934.1 – Study and Evaluation Requirements of the Little Hoover Commission

Ms. Zhong-Fong reported the Little Hoover Commission has scheduled their Advisory Committee meeting on August 28, 2003 and October 23, 2003 and that Ms. Asplund, Ms. Nielsen and herself have been invited to testify on behalf of the Board. Ms. Zhong-Fong asked the Board members if they had comments on any of the issues. Ms. Joan Chang stated that she would like to see discussion of the clinical portion of the exam be placed back on the agenda for the September Board meeting. Ms. Asplund indicated that at the last Board meeting in March 2003, the Board took a position and action in support of retaining the California exam. Ms. Nielsen indicated the Little Hoover Commission at their August 28, 2003 hearing would be inquiring about the four issues under their review and asking the Board the history of the issues, why the commission is involved, what is the Board's position on each of these issues, and why the Board has been unsuccessful in resolving these issues?

The Board reviewed the Little Hoover Commission's list of fifteen questions to the Board regarding school approval, scope of practice and educational requirements.

Public Comment: Neal Miller, L.Ac., Mr. Miller recommended the Board should open discussion with the Little Hoover Commission about increasing the hours to 4,000. He said this issue has been discussed since early 1990's and he referenced an article from a May 1992 *Yuin Journal* and recommended the Board review the article. **Deke Kendall, National Guild of Acupuncture and Oriental Medicine, for education research (National Guild of AOM),** Mr. Kendall stated historically there was a focus on the scope of practice and it was found there was a need for a practitioner to have knowledge of both the Chinese and Western medical terms to understand the cause and treatment of the diseases. Regarding the practical exam, which is removed from the California licensing exam, the current exam format is a written test and provides a better measurement of the candidate. Because the schools should be accountable for measuring the competency while the students are in school, a practical exam may become very subjective. Mr. Kendall stated the schools should be observing the students and the State should be able to rely on the schools to evaluate clinical competency.

Ms. Nielsen stated that the language of AB 1943 declares the Little Hoover Commission shall provide recommendations for reviewing the competence of licensed acupuncturists who are not subject to the 3,000-hour minimum curriculum requirement, and shall provide recommendations for training, testing or continuing education that would be required for these individuals to meet the standards for continued licensure. Mr. Eng suggested that the Board discuss the 3,000 hours prior to the September meeting and prior to the Little Hoover Commission meetings.

The Board decided to move the Board meeting to September 22 and 23, 2003 from the original date of September 29 and 30, 2003, this would allow more discussion time on these issues prior to the Little Hoover Commission hearings.

Mr. Eng stated that the Board has taken a formal motion on the exam, and would the Board take a position on each of the four issues? Mr. Eng and Ms. Zhong-Fong indicates that the Board should structure committees to consider these issues because they need to be defined and incorporated into legislative language. The Board established the following committees to evaluate and make recommendation on the position the Board should take on each of the issues required of the Little Hoover Commission (B&P Code Section 4934.1): (1) Shari Asplund and Min Chang were assigned to school approval; (2) Pei Li Zhong-Fong and Michael Eng were assigned to scope of practice; and (3) Justin Tin and Joan Chang were

assigned to educational requirements. Recommendations from these committees will be brought back to the Board at the September meeting.

c. Business and Professions Code Section 4934.2 – Study and Evaluation Requirements of the Acupuncture Board

1. Comprehensive Study of Unlicensed Acupuncture Assistants

Ms. Asplund reported that a survey was mailed out to all the licensees with the Points of Interest newsletter and commended Ms. Zhong-Fong for her contribution to developing the survey. Janelle Wedge, Administrative Coordinator reported that to date, there were 672 responses from both the acupuncture assistants and continuing education survey. The information and comments will be compiled and reported at the September Board meeting.

2. CE Auditing and Consistency and Relevancy of Approve Courses

Ms. Nielsen reported that the Board has been performing random audits on licensees since January 2003. Ms. Wedge stated that she randomly selects ten renewals a month and compares the licensee's continuing education with the attendance records submitted to the Board from the continuing education providers. This method of auditing in comparison to our previous process has been successful. Ms. Nielsen indicated that pursuant to B&P Code 4934.2, the Board is also responsible for recommending ways to improve the quality and relevance of their CE courses. She also stated the data from the continuing education survey and the results of the random audits will be reported at the September Board meeting.

d. Legislative Update

1. SB 921 (Kuehl) – Single payer health care coverage

Ms. Nielsen reported this bill has been amended four times, passed the Senate and is being held in the Assembly. This bill establishes in State government a California Health Care system, which would be administered by the California Health Care Agency to establish health care coverage on a more uniform and consistent basis.

2. SB 867 (Burton) – Workers Compensation, disability evaluation for acupuncturists

Ms. Nielsen reported that there has been no activity on this bill since March.

3. SB 582 (Speier) - Prohibiting unlicensed health care professional from the sale or distribution of any dietary supplement product containing ephedrine group alkaloids

Ms. Nielsen reported this bill passed the Senate in May and has been amended twice in Assembly committees. It prohibits the sale or distributions of dietary supplements product containing ephedrine by unlicensed professions. The bill was amended July 6, 2003, stating a licensed health care practitioner who is practicing within his/her scope of practice and who prescribes or dispenses or both, dietary supplements containing ephedrine group in the treatment of a patient under the direct care of the licensed health care practitioner.

4. SB 228 (Alarcon) – Workers Compensation fee schedule

Ms. Nielsen reported the bill passed the Senate on June 3, 2003, and passed out of Assembly Appropriations on July 10, 2003. This bill would require that, within the limits established by the bill, the rates or fees established by the medical fee schedule be adequate to ensure a reasonable standard of services and care for injured employees. The bill would also impose maximum fee limitations applicable until the adoption of the fee schedule required pursuant to the bill.

5. SB 907 (Burton) – Establishing Licensure for Naturopathic Doctors

Ms. Nielsen reported the bill passed out of the Senate in May and was amended in Assembly Business and Professions in June and amended again on July 9, 2003. The bill was amended to

state that naturopathic doctors could not perform acupuncture or traditional Chinese and oriental medicine, including Chinese herbal medicine, unless licensed as an acupuncturist.

Public Comment: Brian Fennen, Council of Acupuncture and Oriental Medicine Associations (CAOMA), Mr. Fennen gave a brief report of the current standing of SB 921, which establishes single payer health care coverage, is being held over until January 2004 for further action. CAOMA has requested that an acupuncturist be put on the Advisory Committee of the new oversight agency. SB 867 is on hold until 2004 and has been request by Senator Burton that the Little Hoover Commission add this subject to their discussions about the profession. Mr. Fennen stated SB 582 prohibits the public sale and distribution of dietary supplements containing ephedrine alkaloids and was amended to exempt acupuncturists and other licensed health care practitioner. The bill was further amended to allow pharmacists to purchase and dispense properly prescribed products. SB 228 did not address all the CAOMA's concerns for the impact that this will have on the profession involving fee schedule deliberations. Mr. Fennen stated that SB 907 did not do very well resulted in the naturopath's exclusion of acupuncture, traditional Chinese and oriental medicine including Chinese herbal medicine. Mr. Fennen stated that CAOMA and the National Coalition of Acupuncture and Oriental Medicine have contracted with a lobbyist to get acupuncture covered in Medicare.

PEI-LI ZHONG-FONG MOVED AND MICHAEL ENG SECONDED THE MOTION TO AUTHORIZE THE EXECUTIVE OFFICER TO SUBMIT A LETTER TO SENATOR KUEHL REQUESTING THAT AN ACUPUNCTURISTS BE APPOINTED ON THE ADVISORY COMMITTEE TO THE NEW CALIFORNIA HEALTH CARE AGENCY AS DEFINED IN SB 921. PASSED UNANIMOUSLY

Mr. Eng asked the Board to take a support action for SB 867. Steve English from California State Oriental Medical Association (CSOMA) stated the Legislature has tabled twenty workers compensation bills and this would be premature at this time. Mr. English reported SB 1705 failed passage in the Insurance Committee and in Assembly and they wanted to see the scope of practice come out in Little Hoover. AB 827 was amended on July 9, 2003 and Mr. English suggested that the public members review it.

Neal Miller, L.Ac., Mr. Miller thanked CSOMA and CAOMA on behalf of the profession for their work at the Legislature addressing their concerns. Mr. Miller had concerns that manufacturers are not qualified in the use of ephedra and put the public at risk. He asked the Board to review the previous Board meeting presentations and comments on this subject and establish a task force to take an active roll in regulating Chinese herbal medicine. **Lixin Huang, President of Council of Colleges of Acupuncture and Oriental Medicine of San Francisco (CCAOM)**, Ms. Huang states the Acupuncture Board should support licensed acupuncturists that use herbal medicine and that this does effect the reputation of Traditional Chinese Medicine.

7. Education Business - (Discussion/Action)

a. School Approval/Site Visit Report – New England School of Acupuncture, Watertown, Massachusetts, Evelyn Fowler, LAc, President

Ms. Nielsen and Lloyd Wright, L.Ac, conducted a school site visit on April 1-3, 2003 of the New England School of Acupuncture (NESA) in Watertown, Massachusetts. The site visit team reviewed NESA's Master of Acupuncture and Oriental Medicine (MAOM) degree for consideration of Board approval. Mr. Wright reported that overall the program demonstrated a strong academic presence with a variety of approaches from different traditions. Mr. Wright was concerned that Massachusetts' State law prohibits licensed acupuncturists from making a Western medical diagnoses. Because Massachusetts has a different standard than California, NESA must find a way to train interns to

utilize Western diagnostic procedures, document those procedures and remain in compliance with their law. Ms. Evelyn Fowler, L.Ac, NESA's President, spoke to the Board, provided a plan to address the issue of making a Western medical diagnoses, and answered the Board's questions.

**MICHAEL ENG MOVED SHARI ASPLUND SECONDED THE MOTION TO GRANT A TWELVE (12) MONTH CONDITIONAL APPROVAL TO NEW ENGLAND SCHOOL OF ACUPUNCTURE (NESA) FOR THE MASTER OF ACUPUNCTURE AND ORIENTAL MEDICINE (MAOM) DEGREE PROGRAM.
PASSED UNANIMOUSLY**

Ms. Zhong-Fong advised Ms. Fowler that the conditional approval would allow NESA the time necessary to implement a fully integrated acupuncture and herbal medicine curriculum and clinical training program. NESA needs to demonstrate compliance and provide evidence and testimony of such compliance to the Board in order for NESA to obtain full approval. NESA is also to provide the Board with the written plan to address Massachusetts' State Law prohibiting a licensed acupuncture practitioner from making a Western diagnosis that was described by Ms. Fowler.

Public Comment: Neal Miller, L.Ac., Mr. Miller had concerns for approving NESA and if this would be servicing the consumers in California? Would the student that graduates from NESA and coming to California be adequately trained in critical thinking to treat and diagnose patients?

b. School Applications and Pending Site Visits

Ms. Molinar indicated a site visit is tentatively scheduled for September 2003 on the International Institute of Chinese Medicine (IICM) in Albuquerque, New Mexico. The Board finally received their application for the Albuquerque campus; IICM's administration was under the assumption that since the mother school in Santa Fe was approved that it was not required of the Albuquerque branch campus. Ms Molinar stated IICM requested this site visit take place immediately as they have students from the Albuquerque campus that want to take the California licensing examination. Joan Chang indicated she would be participating in the site visit as the licensed member of the team.

c. Update/Site Visit Report on Relocation of China International, LA, CA.

Ms. Zhong-Fong introduced Jianfu Jiang, President, Albert Hua, Vice President, and Della Welch, Legal Counsel of China International Medical University (CIMU) in Los Angeles. She reported Ms. Molinar accompanied her on a site visit, May 30, 2003, to inspect CIMU's new campus location in Los Angeles. The site visit team has concerns that CIMU students are not completing their training within a reasonable period of time. Ms. Jiang stated CIMU's course schedules have been flexible and courses are scheduled to accommodate the student's needs, which is the reason for the extended enrollment.

Public Comment: Neal Miller, L.Ac., Mr. Miller stated personally he would not recommend any out of state schools and asked the Board to consider the CIMU because they are a California school with good potential.

MICHAEL ENG MOVED AND MIN CHANG SECONDED THE MOTION TO DEFERRED ACTION ON CHINA INTERNATIONAL MEDICAL UNIVERSITY (CIMU) AND REQUEST THE FOLLOWING DOCUMENTS BE SUBMITTED TO THE BOARD NO LATER THAN AUGUST 20, 2003:

- **A SPECIFIC STRATEGIC/MARKETING PLAN WITH DEFINED TIMELINES AND GUIDEPOSTS AND LIST OF CIMU'S PROSPECTIVE DONORS AND EXPECTED REVENUE FROM ALL SOURCES.**

- **A COPY OF THE 2002 CORPORATION TAX RETURN WITH SIGNATURES OF THE CFO AND TAX PREPARER AND INDICATION OF THE DATE SIGNED, INCLUDING EVIDENCE OF THE DATE OF SUBMISSION, SUCH AS CERTIFIED MAIL RETURN RECEIPT.**
 - **PROVIDE DE-3 AND DE-6 RECORDS FOR THE PAST THREE CONSECUTIVE QUARTERS, (QUARTERLY PAYROLL TAX REPORT, REFLECTING THE NAMES OF CIMU'S PAID STAFF).**
 - **ARTICLES OF INCORPORATION, BYLAWS AND MINUTES OF THE NEW ORGANIZATION AS DISCLOSED IN THE JULY 2003 BOARD MEETING.**
 - **CURRENT CIMU STUDENT LIST, AND EVIDENCE OF STUDENT ENROLLMENT AND PROJECTED DATES OF GRADUATION FOR EACH STUDENT.**
- PASSED UNANIMOUSLY**

d. Update on Meiji College, Berkeley, CA

Ms. Nielsen briefly reviewed the Meiji College changes, which are the administration, Board of directors, financial backing and school name. BPPVE requires that a new approval of any change in power or authority from one group to another and Meiji College (a.k.a.: Acupuncture and Integrative Medicine College) must resubmit a new application. Ms. Nielsen indicated the entire structure has changed except for the location and curriculum. Ms. Nielsen recommended the school maintain its approval until the Board can assess its new structure. Requiring they resubmit an application and the Board perform a full review of the documents along with conducting a site visit. Raymond Victorio, President stated there have not been any changes in legal structure, corporate by-laws and articles and governance. Mr. Victorio indicated that the faculty members remained and there was a shift in the Board of Directors. He requested the Board recognize the schools new name? The Board decision was to suspend discussion on the standing of Meiji College until September 2003 Board meeting to allow Don Chang, Legal Counsel time to review all the documents from Meiji College regarding it's restructuring and provide the members with a legal opinion of the findings. The Board cannot recognize Meiji's new name until the review of all the documents by legal and the Board at the September 2003 meeting takes action.

8. Public Comment Period:

Neal Miller, L.Ac., Mr. Miller thanked the Board for their efforts of working fairly with the schools and professions. **Lloyd Wright, L.Ac.**, Mr. Wright suggested the Board develop a group of subject matter experts (SMEs) when conducting site visits, since the Board members are not always available for all site visits because of prior commitments. **Brian Fennen, (CAOMA)**, Mr. Fennen stated the Little Hoover Commissions correspondence reads acupuncture review and it should read acupuncturists review or acupuncture and Oriental medicine review, Mr. Fennen asked the Board if this could be changed?

9. Adjournment

Acupuncture Board meeting adjourned at approximately 5:10 p.m.